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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,341	06/21/2005	Scott Eugene Conner	X-15463	1424
25885	7590	12/07/2006	EXAMINER	
ELI LILLY & COMPANY			CHU, YONG LIANG	
PATENT DIVISION			ART UNIT	
P.O. BOX 6288			PAPER NUMBER	
INDIANAPOLIS, IN 46206-6288			1626	

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/540,341	Applicant(s) CONNER ET AL.	
	Examiner Yong Chu	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-39, 41-54, 56-59 and 63-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-3, 5-6, 8-39, 41-54, 56-59, and 63-65 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 4, 7, 40, 55, 60-62, 66, and 67 are cancelled by the Amendment filed on 6/21/2005. Claims 1-3, 5-6, 8-39, 41-54, 56-59, and 63-65 are currently pending in the instant application and are subject to the following lack of unity requirement.

Election/Restrictions

Restriction is required under 35 U.S.C. 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Claims 1-3, 5-6, 8-39, 41-54, 56-59, and 63-65 are drawn to more than one inventive concept (as defined in PCT Rule 13), and accordingly, a restriction is required according to the provision of PCT Rule 13.2

PCT Rule 13.2 states that the international application shall relate to one invention only or to a group of inventions so linked as to form a general inventive concept (requirement of unity of invention).

PCT Rule 13.2 states that unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features.

Due to the numerous and widely divergent variables in the compound of formula (I'), for example Z_1 , Z_2 , Z_3 , R_1 - R_{32} , E, X, Y, etc., the general formula I' contains various distinct special technical features, and therefore the inventions are lack of unity. A preliminary search with partial scope of invention on STN found projected 5,235 to

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7,363 projected answers. A precise listing of inventive groups cannot be made. The following groups are exemplary:

Group I: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is N, and **Z3** is N.

Group II: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is N, and **Z3** is O.

Group III: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is N, and **Z3** is C.

Group IV: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is O, and **Z3** is N.

Group V: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is O, and **Z3** is O.

Group VI: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is O, and **Z3** is C.

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Group VII: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is C, and **Z3** is N.

Group VIII: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is N, **Z2** is C, and **Z3** is O.

Group IX: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is C, and **Z3** is C.

Group X: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is N, and **Z3** is N.

Group XI: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is N, and **Z3** is O.

Group XII: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is N, and **Z3** is C.

Group XIII: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is O, and **Z3** is N.

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Group XIV: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is O, and **Z3** is O.

Group XV: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is O, and **Z3** is C.

Group XVI: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is C, and **Z3** is N.

Group XVII: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is C, and **Z3** is O.

Group XVIII: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker, **Z1** is O, **Z2** is C, and **Z3** is C.

Group XIX: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is a single bond, **U** is an aliphatic linker replaced with O, NH or S, **Z1** is N, **Z2** is N, and **Z3** is N.

Group XX: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₀-C₈alkyl, **X** is O, S, S(O)₂ and N, **U** is an aliphatic linker replaced with O, NH or S, **Z1** is N, **Z2** is N, and **Z3** is N.

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Group XXI: Claims 1-3, 5-6, 8-39, and 41-54 (in part) are drawn to products of formula (I'), wherein **R2** is a C₁-4-hetroalkyl, **X** is O, S, S(O)₂ and N, **U** is an aliphatic linker replaced with O, NH or S, **Z1** is N, **Z2** is N, and **Z3** is N.

Group XXII: Claim 56 is drawn to a method of treating diabetes mellitus in mammal, comprising the step of administering to the mammal in need thereof a therapeutically effective amount of at least one compound of claim 18.

Group XXIII: Claims 57 and 58 are drawn to a method of treating metabolic disorder in mammal, comprising the step of administering to the mammal in need thereof a therapeutically effective amount of at least one compound of claim 18.

Group XXIV: Claim 59 is drawn to a method of selectively modulating a PPAR delta receptor, comprising administering a compound of claim 2 to a mammal in need thereof.

Group XXV: Claims 63 and 64 are drawn to a method of treating or preventing the progression of cardiovascular disease in mammal in need thereof comprising administering a therapeutically effective amount of compound of claim 18.

Group XXVI: Claim 65 is drawn to a compound as claimed in claim 18 wherein the compound is radiolabeled.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. The elected group is subject to further restriction.

Again, this list is not exhaustive as it would be impossible under the time constraints due to the sheer volume of subject matter instantly claimed. Therefore,

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applicant may choose to elect a single invention at the similar scope as the examples shown supra (a product or a method of use of said product) by identifying another specific embodiment, i.e. another group, not listed in the exemplary groups of the invention and examiner will endeavor to group the same. ***Applicant also needs to elect a single compound as the elected species for initial search purpose.***

The claims herein lack unity of invention under PCT rule 13.1 and 13.2 since, under 37 CFR 1.475(a) the compounds defined in the claims lack a significant structural element qualifying as the special technical feature evidenced by formula I' with numerous and widely divergent variables in the compound of formula (I').

Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unity of invention is considered to be proper. Additionally, the vastness of the claimed subject matter, and the complications in understanding the claimed subject matter imposes a serious burden on any examination of the claimed subject matter.

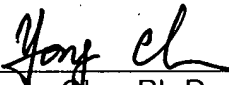
Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed Yong Chu whose telephone number 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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